

COURT INTERPRETER COMMISSION
MEETING MINUTES
FRIDAY, APRIL 30, 2010
AOC SEATAC OFFICE

Members Present: Justice Susan Owens, Leticia Camacho, Emma Garkavi, Judge Judith Hightower, Dirk Marler, Frank Maiocco, Mike McElroy, Steve Muzik, Judge James Riehl and Judge Gregory Sypolt.

Guest: Barbara Robinson, WITS President

Staff: Katrin Johnson

I. General Business

Justice Owens welcomed Barbara Robinson, who was recently elected as president of the Washington Court Interpreters and Translators Society (WITS).

The minutes of the February meeting were unanimously approved.

II. Disciplinary Committee Report

Biannual Compliance Reporting: The Disciplinary Committee met to review the interpreters who failed to meet compliance requirements for 2008 and 2009. One certified interpreter and one registered interpreter had their credentials revoked due to failure to provide any proof of participation in continuing education events, and no explanation for non-participation. Two additional interpreters were out of compliance but provided some justification. Their certifications were suspended until June 1, and could be reinstated upon proof of compliance. Failure to come into compliance by June 1 will result in decertification.

Disciplinary Actions: The Disciplinary Committee has recently discussed three cases of reported misconduct.

(1) A court issued a complaint about a certified interpreter who provided misleading information on a Juror Questionnaire, presumably in an attempt to avoid jury duty. The interpreter did not indicate occupation as indicated on the form, and in response to the question "Are you able to communicate in the English language" responded with "limited." The Committee decided to issue a private reprimand.

(2) A non-certified interpreter of a certifiable language allegedly convinced a defendant to plead guilty. AOC staff is still seeking information to investigate the complaint.

(3) A registered interpreter recently ran for the Board of Directors of WASCLA (Washington State Coalition for Language Access), and submitting a bio stating that the interpreter is legally certified in Washington, New York and New Jersey. The interpreter is Registered in Washington, and never obtained certification in New York or New Jersey. When AOC staff confronted the interpreter, the interpreter attempted to correct the information and withdrew from the election. The Committee brought the issue to the Commission for full discussion on whether such disclosure constitutes a violation of the Code of Conduct – “A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.”

The Commission was very concerned about the interpreter’s conduct because misrepresentation about three states is not accidental. While this did not occur in the strict court context, WASCLA promotes the same standards as the Interpreter Commission and many interpreters are members. However, the Code of Conduct does not specifically identify misrepresentation of credentials, in particular for a context outside court interpreting. It was recommended that a letter of reprimand be sent to the interpreter, and that the Commission consider working on developing new policy language for similar acts in the future.

III. Posting of interpreter discipline on website

At the request of Commission members, staff provided three examples of posting interpreter discipline on the AOC website. The Wisconsin Court Interpreter Program displays summaries of complaints filed against interpreters and their outcome, without publishing the actual names of the interpreters. These complaints include meritorious and unfounded complaints, and serve to provide education to the interpreter community about complaints filed against interpreters and the program’s handling of the complaints. The Texas Department of Licensing and Regulation lists on its website the names of interpreters who engaged in misconduct, along with a description of the misconduct and the final order. The Washington Certified Professional Guardian Program lists the name of guardians found to have engaged in misconduct, with links to documents providing the underlying facts and resulting orders.

The Commission decided that openness and transparency is needed to ensure that we are accountable to the public, and voted in favor of taking the same approach as the Certified Professional Guardian Program. Information will only be posted on interpreters found to have been in violation of the Code of Ethics or Program Policies beginning in 2010. Information relating to misconduct which results in private reprimand will not be posted on the AOC web site. Staff should also post the names of interpreters found to be out of compliance with biannual reporting requirements, but those who voluntarily resign will not be posted.

IV. Judicial and Court Manager Education Committee

Pro Tem Training: Emma and Katrin recently participated in a training sponsored by the Washington State Bar Association and the District and Municipal Court Judges Association, for attorneys seeking to be pro tem judges. The training was delivered in both Seattle and Spokane. While Emma and Katrin presented on basic information on working with interpreters,

the class also included a protection order hearing conducted exclusively in Spanish. The litigant was English speaking, and a certified interpreter simultaneously interpreted into English for the litigant (and the audience). The audience in both venues providing an overwhelming response to the mock hearing, expressing how difficult and frustrating it was to be the person who couldn't communicate in the language spoken by the judge and attorneys. It was an impactful way to demonstrate the LEP litigant's perspective.

It was recommended that at future trainings there be further discussion about the ramifications of having no interpreter present. In some civil cases judges still demonstrate confusion regarding their obligation to provide interpreters, the court's requirement to pay for interpreters, and how many interpreters to obtain for multiple LEP parties.

DMCJA/DMCMA Conference: The District and Municipal Court Judges and Managers Associations will hold a joint conference in Spokane in May, and Katrin is coordinating a session with court administrators and judges from Tukwila Municipal Court and Snohomish District Court. The session will focus on best practices and cost saving measures in providing interpreter services.

Future Projects: The Education Committee plans to begin work on rewriting the Judicial Reference Guide.

V. Issues Committee Report

Oral Certification Exam Rescore Policy: Under current program policies, candidates passing two of the three oral exam sections are eligible for a rescore, regardless of the score of the failed portion. With the number of testing languages and testing candidates rising, more & more candidates are eligible for rescoring under this policy with very low scores on the failing portion. Rescoring rarely yield different results. There are safeguards in place to ensure fairness in rating. For example, oral exam rating is completed by teams of two qualified raters, and when the two raters do not agree on whether a point should be deducted or granted, they are required to go in the candidate's favor. Research from other states indicates that there is not uniformity in a rescore policy, but it was most commonly found that candidates are entitled to rescoring if they scored at least 65% in the failing section.

Additionally, for some languages there are only two qualified raters who have been trained by the Consortium for Language Access in the Courts. In the past, there have been rescore requests in these languages, and the rescore is then done by one of the people who did the original rating.

The Issues Committee moved to amend the program policy as follows. The motion was unanimously approved:

Any candidate that takes the oral certification exam and passes two sections ~~but fails the third~~, and scores at least 65% on the non-passing section, may submit a request for re-score.

A candidate must submit a request for re-scoring to the AOC in writing within 40 days after AOC sends the results of the exam via US mail. Any requests received after 40 days will be denied. In the event that a candidate's request for rescore is approved, he/she will be responsible for paying the cost associated with the rescore (to be determined at that time).

The written appeal will be (1) forwarded to the Issues Committee for review and a decision on whether or not to allow rescoring (2) forwarded to the Consortium for their consideration in developing future examinations, and (3) shared with the Commission at the next quarterly meeting.

Any decision to re-score the exam is at the sole discretion of the Issues Committee based on specific allegations of fundamental errors in the methodology used in evaluating or scoring the exam by the requesting party (test candidate). Candidates are not entitled to rescoring if the only trained raters qualified to rate the oral exam constituted the rating team that rated the candidate's performance.

Interpreter Oath: House Bill 2518 was signed into law, which requires certified and registered interpreters to file signed oaths with the AOC, and judges are not required to individually administer oaths and qualify certified and registered interpreters. The Commission discussed the language to be used in the Oath template to be signed by interpreters for this purpose.

It was voted by a majority of the Commission that the oath document will contain the following language:

- I. I will abide by the Code of Conduct for court interpreters adopted by the Supreme Court of the state of Washington while maintaining high standards of conduct to preserve the integrity and independence of the adjudicative system. I will protect privileged communications, refrain from the unauthorized practice of law, and reveal to the court any conflict of interest.*
- II. I will make a true interpretation of all the proceedings in a language which the limited English proficient person understands, and will repeat the statements of the limited English proficient person to the court or agency conducting the proceedings in the English language, to the best of my skill and judgment.*
- III. I will maintain the respect due to the courts of justice and judicial officers, and to all parties involved in legal proceedings.*

Because the law requires certified and registered interpreters to submit a sworn oath to the AOC on a biannual basis, the policy changes found in Appendix A were unanimously approved.

Written Exam Waiver Request: An interpreter candidate contacted staff requesting a waiver of the written exam three year rule. He passed the written exam in 2003, and wants to sit for the oral exam in 2010. The candidate took and failed the oral exam in 2003. He stated he was unable to take the oral exam in 2009 due to the death of a pet, and was unable to take the written exam in 2010 due to an ear infection.

The Issues community denied the waiver, citing that the candidate had many opportunities to take the oral exam, and the reasons provided do not justify deviation from consistent implementation of the three-year rule.

VI. Court interpreter program update

Written Exam: The 2010 written exam was administered in February. There were 272 candidates registered: 99 passed, 157 failed, and 16 failed to appear for the exam.

Orientations: All certified and registered candidates who passed the written exam are required to attend orientation either May 8 in Bellevue or May 15 in Yakima. The purpose of orientation is to provide introductory information to the three modes of interpreting and court terminology/procedure.

Language Specific Training Materials: The AOC is collaborating with the Oregon Court Interpreter Program to develop language-specific consecutive and simultaneous training materials in Spanish, Russian, Korean, Cantonese, Mandarin, Vietnamese, Arabic and Somali.

California Certification: A report was recently released comparing the oral certification exams from the California Court Interpreter Program with the Consortium's (which are used by Washington). The report concludes that they are equivalents, measuring the same competencies at the same levels. The release of this report may help to inform further discussion on whether Washington should grant reciprocity to passing oral exam scores from California. Steve agreed to review the report closely and work with the Issues Committee on forming a recommendation.

VII. Other business

- Members were provided a report showing Commission members' responses to a survey distributed for purposes of the Boards/Commissions workgroup.
- Judge Riehl and Emma Garkavi updated the Commission on the progress of the Boards/Commissions workgroup. The workgroup consists of twelve individuals bringing different court-related perspectives. There have been diverse opinions about whether the purpose is to revamp the entire configuration of boards and commissions or instead develop efficiencies so that they function better. A meeting was held with a smaller section of the workgroup and Chief Justice Madsen, which helped us learn about this workgroup's efforts in the context of the Judicial Branch's long range planning. The workgroup will work on recommendations that help to institutionalize improvements,

so that boards and commissions are less personality driven. It is anticipated that the work of the current boards and commissions will not be discontinued.

VIII. Adjourn

Next Meeting: Friday, August 6, 11:00 – 2:30, AOC Office in SeaTac

Appendix A

Continuing Education-Certified Biannual Reporting Requirements for Certified Interpreters

All interpreters certified by the Administrative Office of the Courts must meet these requirements in order to maintain their certification credential. ~~Continuing education requirements apply to interpreters who are certified in Washington State. Meeting these requirements is a condition for all certified court interpreters. There are no exceptions.~~

Requirements

A. Continuing Education

Every certified court interpreter shall complete 16 hours of approved continuing education each two-year compliance period. At least two (2) continuing education hours must be earned at an AOC approved ethics workshop.

B. Court Hours

Every certified court interpreter shall complete 20 court hours each two-year compliance period. The interpreter will document court hours on the compliance form by showing court location, date, case number, and number of hours spent on each case. A written statement from a court administrator attesting to the approximate number of court hours may be submitted in lieu of a listing of court cases. Court hours may include interviews, sight translation of documents in meetings with attorneys, or depositions.

Certified court interpreters may carry over a maximum of six (6) continuing education credits earned in excess of the requirement in any two-year compliance period to the next compliance period. If an interpreter earns more than two (2) ethics credits in a review period, the additional credits may carry over as general credits but will not be counted toward the ethics requirement for the next reporting period.

C. Interpreter Conduct

Every two years, certified interpreters shall report whether they have been convicted of any crimes, or have been in violation of any court orders.

D. Execute Oath Of Interpreter

Every two years, certified interpreters shall submit to the AOC a signed, sworn oath of interpreter.

Verification of Compliance

Every certified court interpreter is responsible for completing a compliance form at the conclusion of each two-year reporting period and submitting it to the AOC. To complete the compliance form, the interpreter must document his/her (1) continuing education classes and credits, including ethics; (2) and court hours; and (3) conviction of any crime or violation of any court order. The compliance form must be signed by the interpreter under penalty of perjury. The interpreter must retain written compliance documentation for a three-year period after submitting the compliance form to the AOC. The interpreter shall show proof of attendance at continuing education classes upon request.

Every certified court interpreter is also responsible for submitting a completed, signed, and sworn oath of interpreter with the compliance form. The blank oath form will be provided to the interpreter by the AOC Court Interpreter Program. The interpreter is responsible for bringing the blank oath form to a state or federal court, and requesting that a state or federal court judge administer the oath and sign the oath form.

Non-Compliance

A certified court interpreter, who fails to submit a compliance form or completed, signed and sworn oath at the end of the two-year reporting period, shall be considered out of compliance. Upon a preliminary determination of an interpreter's non-compliance by the AOC, the AOC will submit a written complaint of non-compliance, together with supporting evidence, to the Discipline Committee of the Interpreter Commission. The AOC will send a notice of non-compliance and a copy of the complaint and supporting evidence to the interpreter. The interpreter may respond within 30 calendar days of the date of notice by submitting to the Discipline Committee a written response. The response shall be in writing, and may include, affidavits or declarations of witnesses, copies of court records, or any other documentary evidence the interpreter wishes to have the Committee consider.

The Discipline Committee shall meet (in person, via email or telephone conference call) within 40 calendar days of the date of the complaint to review the complaint and supporting evidence to determine whether there is clear and convincing evidence that the interpreter is out of compliance and, if so, impose such disciplinary action as it determines appropriate.

Certified interpreters will not be issued a current ID badge until all ~~continuing education~~ requirements are satisfied. If the Discipline Committee suspends or revokes the certification of an interpreter, the interpreter's name will be removed from the directory of interpreters found on AOC's website at www.courts.wa.gov and an electronic notice will be sent to presiding judges and court administrators/managers.
